



PLANNING COMMISSION AGENDA
SYNOPSIS

Wednesday, October 27, 2004

6:00 p.m. Regular Meeting
Council Chambers, Room 205, City Hall

801 North First Street
San Jose, California

Bob Levy, Chair
Bob Dhillon, Vice-Chair

Xavier Campos Jay James
Dang T. Pham
Christopher Platten James Zito

Stephen M. Haase, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 277-4576 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Bob Levy** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***October 27, 2004***. Please remember to turn off your cell phones and pagers. If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

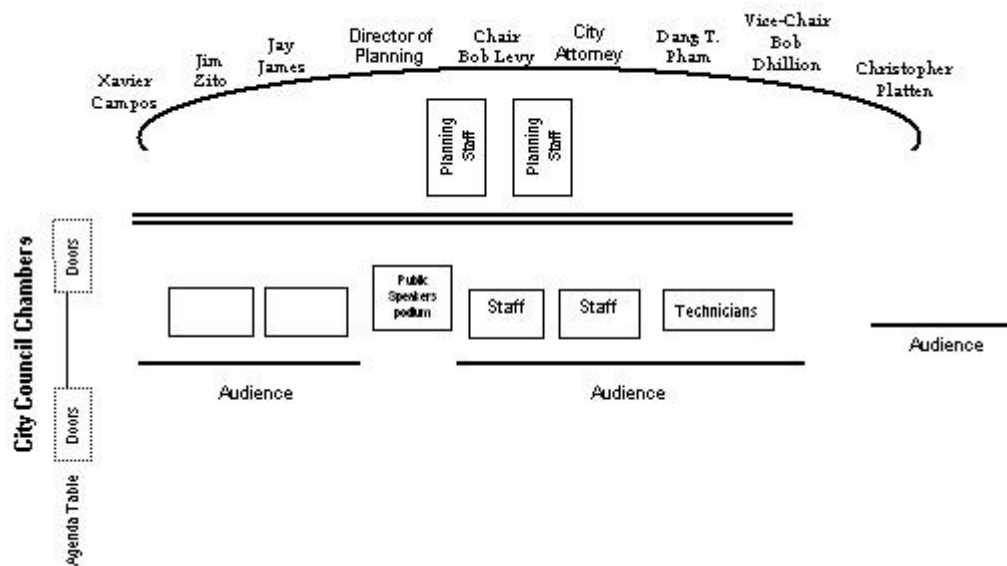
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda changes, please contact Debi Stollman at (debi.stollman@sanjoseca.gov).

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm>. Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 277-4576. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

ALL WERE PRESENT EXCEPT ZITO.

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.

- a. **CP04-053**. Wireless - Conditional Use Permit to allow two (2) wireless communications antennas within a modified (church) cross and associated 500 square foot equipment shelter at an existing church on a 1.98 gross acre site in the R-1-5 Single-Family Residence Zoning District, located at the northeast corner of Clayton Road and Pine Ridge Way (3535 CLAYTON RD) (Mt Pleasant Christian Ctr Sj, Owner). Council District 5. SNI: None. CEQA: Exempt.

Recommendation:

Planning staff recommends that the Planning Commission approve a Conditional Use Permit to two (2) wireless communications antennas within a modified (church) cross and associated 500 square foot equipment shelter at an existing church as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- b. [CP04-101](#). Conditional Use Permit to allow the continued use of an existing monopole/ wireless communications facility for which the prior Permit has expired, modifications to the antennas, and the addition of an emergency, back-up generator on a 0.1 gross acre site in the R-1-5 Single-Family Residence Zoning District, located at 9770 Monterey Road (9770 MONTEREY RD) (Anna Saso, Owner; Verizon Wireless, Developer). Council District 2. SNI: None. CEQA: Exempt

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit to allow the continued use of an existing monopole/ wireless communications facility for which the prior Permit has expired, modifications to the antennas, and the addition of an emergency, back-up generator as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- c. [CP04-089 and ABC04-009](#). Conditional Use Permit and Liquor License Exception to allow on-site sale of alcoholic beverages, an entertainment and drinking establishment (including cocktail lounge, dancing, and a DJ) and to operate after midnight until 2:00 am on a 0.11-acre site in the DC Downtown Primary Commercial Zoning District, located on East side of South 1st Street, approximately 200 feet northerly of San Salvador Street (Sofa Lounge) (372 S 1ST ST) (Turco John E Trustee & Et Al, Owner). Council District 3. SNI: None. CEQA: Exempt.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit and Liquor License Exception Permit to allow on-site sale of alcoholic beverages, an entertainment and drinking establishment (including cocktail lounge, dancing, and a DJ) and to operate after midnight until 2:00 am as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- d. [CP04-040](#). Conditional Use Permit to allow a new, 24-foot tall, wireless communications antenna/ monopole and associated equipment enclosure in the R-1-8 Single-Family Residence Zoning District, located on the westerly side of US Highway 101 and easterly of Snow Drive, at the terminus of Giraudo Drive (Caltrans, Owner; Nextel of California, Developer). Council District 2. SNI: Edenvale/Great Oaks. CEQA: Exempt.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit Permit to allow a new, 24-foot tall, wireless communications antenna/ monopole and associated equipment enclosure as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- e. [C04-074](#). Conventional Rezoning from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.53 gross acre site, located at/on the southeast corner of West San Carlos Street and Josefa Street (498 W SAN CARLOS ST) (Leonard & Co Inc, Owner). Council District 3. SNI: Delmas Park. CEQA: EIR Resolution No. 65459.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council approval of a proposed Conventional Rezoning from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- f. [PDC04-040](#). Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences on a 1.75 gross acre site, located on the south side of East San Antonio Street, at South 34th Street (1650 E SAN ANTONIO ST) (Pham Thinh Et Al, Robert Ross and Janet Rausch, Owners; DKB Homes, Mr. Charles Walton, Developer). Council District 5. SNI: Gateway East. CEQA: Mitigated Negative Declaration. Deferred from 10/13/04.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council approval of a proposed Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences as recommended by staff.

RECOMMEND APPROVAL (6-0-1; ZITO ABSENT).

PULLED FROM CONSENT BY MEMBER OF THE PUBLIC.

COMMISSIONER JAMES ASKED THE APPLICANT FOR CLARIFICATION ON FUNDS TO BE CONTRIBUTED TO AFFORDABLE HOUSING. APPLICANT RESPONDED THAT \$190,000 OF IN LIEU FEE WOULD BE THE CONTRIBUTION OF THIS PROJECT, AND

CONFIRMED THE FEE PAYMENT WAS PREFERABLE TO PROVISION OF A NUMBER OF AFFORDABLE UNITS ON-SITE, GIVEN SMALL SIZE OF PROJECT.

NEIGHBORHOOD RESIDENTS ASKED IF ONE UNIT COULD BE MADE INTO A COMMUNITY CENTER. OTHER AREA RESIDENTS EXPRESSED CONCERNS REGARDING POSSIBLE INCREASE IN TRAFFIC, AND OVERCROWDING OF SCHOOLS. ONE RESIDENT REQUESTED THAT ARCHITECTURAL STYLES FROM THE NEIGHBORHOOD BE USED FOR THE PROJECT. THE APPLICANT CLARIFIED THAT AT THE PLANNED DEVELOPMENT PERMIT STAGE, THE FULL DESIGN OF A VACANT SWATH OF LAND AS A RECREATIONAL AREA, POSSIBLY AS A “TOT-LOT”, WOULD BE RESOLVED, AND THAT DURING THE FINAL DESIGN OF THE PROJECT FACADES, THE COMMUNITY COULD BE INVOLVED IN INCORPORATING LOCAL HISTORICAL DESIGN ELEMENTS.

PUBLIC WORKS STAFF CLARIFIED THAT NO WIDENING OF SAN ANTONIO IS PROPOSED, BUT PROJECT WILL REPLACE BROKEN CURB, GUTTER AND SIDEWALK.

COMMISSIONER DHILLON AND CAMPOS NOTED THIS PROJECT IS FAIRLY TYPICAL OF SMALL IN FILL PROJECTS CITYWIDE, BUT SHOULD BE IMPROVEMENT FOR THIS NEIGHBORHOOD, AND THANKED DEVELOPER FOR WORKING TO INCORPORATE DESIGN CHANGES FOR COMMUNITY.

COMMISSIONERS JAMES AND DHILLON ALSO CONGRATULATED AREA RESIDENTS FOR WORKING TOGETHER FOR COMMUNITY.

- g. The projects being considered are located at/on the southwest corner of Kirk Road and Salisbury Drive on a 0.81 gross acre site (Iranian Christian Church, Owner). Council District 9. SNI: None. CEQA: Mitigated Negative Declaration.

1. [PDC03-105](#). Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development Zoning District to allow 6 single-family detached residential units.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council approval of a proposed Planned Development Rezoning to allow an existing un-permitted social service use in a single-family residential structure as recommended by Staff.

RECOMMEND APPROVAL (6-0-1; ZITO ABSENT).

2. **PD04-047**. Planned Development Permit to allow the construction of 6 single-family detached residential units.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Planned Development Permit to allow the construction of six (6) single-family detached residential units as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

3. **PT04-059**. Planned Tentative Map Permit to reconfigure 2 parcels into 6 lots for single-family detached residential units.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Planned Tentative Map Permit to reconfigure 2 parcels into 6 lots for single-family detached residential units as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- h. **CP04-043**. Conditional Use Permit request to allow wireless communications antenna and associated equipment cabinets on the roof of an existing church on a 3.55 gross acre site enclosure in the R-1-8 Single-Family Residence Zoning District, located on the east side of South White Road, approximately 300 feet southerly of East Hills Drive (WHITE ROAD BAPTIST CHURCH, OWNER; METRO PCS, INC, DEVELOPER). Council District 5. SNI None. CEQA: Exempt.

Recommendation: Planning staff recommends **deferral to 11-10-04**.

DEFERRED TO 11/17/04 (6-0-1; ZITO ABSENT).

- i. **PDC04-026**. Planned Development Rezoning from A Agricultural Zoning District and R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 15 single-family detached residences on a 2.25 gross acre site, located on the southwest corner of Story Road and Clayton Road (Davis Jim W And Janet M Trustee, Echavarria Ernest J And Cecilia, Echavarria Ernest, Owners; DKB Homes, Developer). Council District 5. SNI: None. CEQA: Mitigated Negative Declaration.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council approval of a proposed Planned Development Rezoning from A Agricultural Zoning District and R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 15 single-family detached residences as recommended by Staff.

RECOMMEND APPROVAL (6-0-1; ZITO ABSENT).

The following items are considered individually.

4. PUBLIC HEARINGS

- a. PDA84-046-01. APPEAL OF THE PLANNING DIRECTOR’S DECISION TO APPROVE A PLANNED DEVELOPMENT PERMIT AMENDMENT to allow the removal of one Aleppo Pine tree 76 inches in circumference on an existing attached residential site, in the R-1-8 (PD) Planned Development Zoning District, located on the southerly side of Primavera Court, approximately 250 feet easterly of Primavera Drive (Via Primavera Homeowner’s Association, Owners). Council District 2. SNI: None. CEQA: Exempt. Continued from 10-13-04.

Recommendation:

Planning staff recommends that the Planning Commission uphold the Planning Director’s decision to approve a Planned Development Permit Amendment to remove one (1) Aleppo Pine tree 76 inches in circumference on an existing attached residential site as recommended by Staff.

APPROVED (4-1-1-1; JAMES OPPOSED, ZITO ABSENT, PHAM ABSTAINED WITH CONDITION FOR TEN REPLACEMENT TREES ON HILLSIDE AND SIX MONTH TIME FRAME FOLLOWING TREE PLANTING FOR ALEPPO PINE REMOVAL, WITH STUMP TO REMAIN. DEFERRED TO 11/10/04 FOR PREPARATION OF RESOLUTION.

APPELLANT’S ARBORIST PROVIDED AN ADDITIONAL REPORT INDICATING THE TREE IS HEALTHY, AND SHOULD BE RETAINED FOR SHADE AND FOR STABILITY OF THE HILLSIDE. APPLICANT’S ARBORIST INDICATED TREE IS HEALTHY, BUT SAFETY IS KEY ISSUE AS TREE COULD FALL.

COMMISSIONER JAMES NOTED DISAGREEMENT REGARDING ABILITY TO “TOP” OR THIN THE CROWN OF THIS TREE ADEQUATELY TO MAKE THE TREE SAFE.

COMMISSIONER LEVY NOTED THAT STAFF CONFIRMED THE CEQA ANALYSIS INDICATED THE TREE REMOVAL WOULD BE “EXEMPT”

AND THAT ANY PROCEDURAL ERRORS WERE RECTIFIED BY PROVIDING A TWO (2) WEEK DEFERRAL TO ALLOW MORE TESTIMONY.

COMMISSIONER JAMES INDICATED THAT IT WOULD BE APPROPRIATE TO FURTHER INVESTIGATE REPORTS OF OTHER TREES REMOVED WITHOUT PERMITS, AND THE CITY ATTORNEY CLARIFIED THAT WOULD BE A SEPARATE ACTION AND COULD NOT BE PART OF THIS PERMIT. THE CITY ATTORNEY CLARIFIED THAT THE PLANNING COMMISSION CAN DECIDE APPROPRIATE MITIGATION FOR REMOVAL OF THIS TREE, AND CLARIFIED COMMISSION COULD MAKE TIMING RECOMMENDATIONS FOR REPLANTING.

COMMISSIONER PLATTEN MOVED TEN TREES BE PLANTED AND MULCHED AND IN PLACE SIX MONTHS PRIOR TO REMOVAL OF PINE TREE, AND THAT THE STUMP REMAIN IN PLACE.

- b. [CP04-083](#). Conditional Use Permit for expansion of a legal non-conforming private school use to include a 0.4 acre site zoned CP Commercial Pedestrian located on the south side of Emory Street , 300 feet west of Stockton (760 EMORY ST) resulting in an approximately 24 acre private school campus. The expansion area includes an existing one-story office building proposed for use as a wrestling facility. (Bellarmine College Preparatory, Owner). Council District 6. SNI: None. CEQA: Exempt.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit to allow the expansion of a legal non-conforming private school use to include a 0.4 acre site zoned CP Commercial Pedestrian located on the south side of Emory Street , 300 feet west of Stockton (760 EMORY ST) resulting in an approximately 24 acre private school campus. The expansion area includes an existing one-story office building proposed for use as a wrestling facility as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

COMMISSIONER JAMES ASKED FOR CLARIFICATION THAT LIGHT POLES WOULD BE SHORTED TO MEET CODE HEIGHT, WHICH WAS CONFIRMED BY THE APPLICANT.

- c. [CP03-010](#). CONDITIONAL USE PERMIT to allow an entertainment and drinking establishment, operation after midnight, and an alternating use parking arrangement on a 2.16 gross acre site in the CN-Commercial Neighborhood Zoning District located at the northeast corner Monterey Road and Rancho Drive (3844 Monterey Road) (Alex Hawari, Owner; Fiesta Club/Miguel Sandoval, Developer). Council District 7. SNI: None. CEQA: Addendum to ND. Continued from 9-22-04.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit Permit to an entertainment and drinking establishment, operation after midnight, and an alternating use parking arrangement as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

- d. [CP04-068](#). Conditional Use Permit to convert an existing 16-unit multi-family residential building totalling 11,868-square feet and an existing single-family residence to fraternity residential uses on a 0.25 acre site in the R-M Multiple Residence Zoning District, located at/on northwest corner of East San Fernando Street and South 7th Street (295 E SAN FERNANDO ST & 79 S 7th ST) (Redevelopment Agency Of The City Of San Jos, Owner). Council District 3. SNI: 13th Street, University. CEQA: Exempt.

Recommendation:

Planning staff recommends that the Planning Commission to approve a Conditional Use Permit Permit to convert an existing 16-unit multi-family residential building totaling 11,868-square feet and an existing single-family residence to fraternity residential as recommended by staff.

APPROVED (6-0-1; ZITO ABSENT).

APPLICANT CLARIFIED THAT ONGOING INVOLVEMENT OF NATIONAL AND STATE CHAPTERS OF THE FRATERNITY WOULD HELP MAINTAIN CONSISTENCY AND RESPONSIVENESS OF OPERATION, AND NOTED NEIGHBORS WOULD BE GIVEN LOCAL CONTACT INFORMATION FOR COMPLAINTS. APPLICANT ALSO CLARIFIED RESIDENT CARS WOULD BE LOCATED IN GARAGE, NOT ON THE STREET, AND NOTED THAT A MEMBER OF THE FRATERNITY WOULD PARTICIPATE IN THE NEIGHBORHOOD ASSOCIATION.

COMMISSIONER JAMES EXPRESSED CONCERN REGARDING PARKING. THE APPLICANT CLARIFIED STUDENT RESIDENTS WOULD ONLY PARK IN SJSU GARAGE AND WOULD BE REQUIRED TO ACQUIRE DECALS TO PERMIT OVERNIGHT PARKING.

COMMISSIONER LEVY ASKED FOR CLARIFICATION ON QUIET HOURS AND PARTIES. THE APPLICANT CLARIFIED THAT OTHER UNIVERSITY REGULATIONS LIMIT THE FRATERNITY TO ONE FRIDAY NIGHT PARTY PER SEMESTER, AND THAT QUIET HOURS COULD BE MAINTAINED IF PARTY IS INDOORS AND DOORS AND WINDOWS REMAIN CLOSED. FURTHER, ANNUAL OPEN HOUSES WILL BE PROVIDED TO ALLOW ACCESS TO NEIGHBORHOOD RESIDENTS.

COMMISSIONER LEVY COMMENDED FRATERNITY MEMBERS ON WORKING WELL WITH NEIGHBORHOOD SO THAT NO NEIGHBORS WERE PRESENT WITH CONCERNS.

- e. The items being considered are located at the southwest corner of Coleman Street and West Taylor Street on a 39.1 gross acre site (Southern Pacific Transportation Co, Owner). Council District 3. SNI: None.

1. **FINAL ENVIRONMENTAL IMPACT REPORT (EIR)** to allow a community retail center of up to 385,000 square feet containing a mixture of retailers, sit-down restaurants, drive-through fast food restaurants, offices, gas station, and other typical retail and quasi-retail uses, such as service business and office uses.

Recommendation:

Planning staff recommends that the Planning Commission to approve a FINAL ENVIRONMENTAL IMPACT REPORT (EIR) to allow a community retail center of up to 385,000 square feet containing a mixture of retailers, sit-down restaurants, drive-through fast food restaurants, offices, gas station, and other typical retail and quasi-retail uses, such as service business and office uses as recommended by Staff.

APPROVED (6-0-1; ZITO ABSENT).

2. **PDC04-018**. Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow a community retail center of up to 385,000 square feet containing a mixture of retailers, sit-down restaurants, drive-through fast food restaurants, offices, gas station, and other typical retail and quasi-retail uses, such as service business and office uses.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council approval of a proposed Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow a community retail center of up to 385,000 square feet containing a mixture of retailers, sit-down restaurants, drive-through fast food restaurants, offices, gas station, and other typical retail and quasi-retail uses, such as service business and office uses as recommended by Staff.

RECOMMEND APPROVAL (6-0-1; ZITO ABSENT).

STAFF REPORTED THE FOLLOWING TWO CORRECTIONS TO THE DRAFT EIR AND THE FIRST AMENDMENT NEITHER OF WHICH CHANGES THE IMPACT CONCLUSIONS:

- *A TYPOGRAPHICAL ERROR IN THE TABLE ON PAGE 132 OF THE DRAFT EIR. THE I-280 FREEWAY SEGMENT FROM BIRD TO MERIDIAN SHOULD READ A LOS OF E IN THE P.M. AND NOT F.*
- *A DISCREPANCY BETWEEN THE TEXT ON PAGE 260 OF THE DRAFT EIR AND THE TABLE ON PAGE 18 OF THE FIRST AMENDMENT. THE TEXT STATES THAT THE LOS FOR BOTH IMPACT CUMULATIVE TRAFFIC 3 COLEMAN TO HEDDING AND IMPACT CUMULATIVE TRAFFIC 4 COLEMAN TO TAYLOR IS F IN THE P.M. THE TABLE STATES THAT THEY ARE BOTH E IN THE P.M. THE TABLE IS CORRECT AND THE TEXT SHOULD READ THAT THEY ARE BOTH E IN THE P.M.*

JOHN LOPER OF COUSINS PROPERTIES, INC., THE APPLICANT, PRESENTED THE PROJECT. HE DESCRIBED THE SITE PLAN AND SAID THAT THE PROJECT WOULD (1) CONSTRUCT OF A PORTION OF THE NEW ALIGNMENT FOR AUTUMN STREET, (2) RELOCATE AN EXISTING AT-GRADE CROSSING FROM EXISTING NORTH AUTUMN STREET TO THE PROPOSED REALIGNED AUTUMN STREET, ACROSS THE TRACK AND RIGHT-OF-WAY OF UNION PACIFIC RAILROAD, (3) WIDEN COLEMAN AVENUE TO ALLOW FOR THREE EASTBOUND LANES OF TRAFFIC, A BICYCLE LANE, AND 10-FOOT SIDEWALK, AND (4) DEDICATE APPROXIMATELY 3 ACRES OF THE SUBJECT SITE FOR INCORPORATION INTO THE GUADALUPE RIVER PARK. HE ALSO STATED THAT THE PROJECT WOULD PROVIDE A TYPE OF GENERAL RETAIL SHOPPING THAT COULD NOT LOCATE IN THE DOWNTOWN AND THAT IT WOULD ALSO PROVIDE A GATEWAY TO DOWNTOWN.

COMMISSIONER JAMES ASKED IF THE BUILDING HEIGHTS ON THE PROPERTY WERE IN CONFORMANCE WITH FEDERAL AVIATION ADMINISTRATION (FAA) REGULATIONS. THE APPLICANT RESPONDED THAT THEY WERE BELOW THE FAA IMAGINARY HEIGHT RESTRICTIONS AND THAT MOST OF THE BUILDINGS ON THE SITE HAVE A MAXIMUM OF 60 FEET. THE PORTION OF THE SITE NEAREST TAYLOR STREET WOULD BE RESTRICTED TO 50 FEET IN HEIGHT.

COMMISSIONER LEVY COMMENTED THAT THE PROPOSED DEVELOPMENT SEEMED TO BE LOW INTENSITY FOR A LOCATION CLOSE TO DOWNTOWN, AND THAT MORE INTENSE DEVELOPMENT WOULD BE APPROPRIATE. HE DID RECOGNIZE THAT THE SITE HAD USE AND HEIGHT LIMITATIONS DUE TO ITS CLOSE PROXIMITY OF THE AIRPORT.

PUBLIC TESTIMONY WAS THEN TAKEN. THERE WERE TWO COMMUNITY MEMBERS WHO SPOKE ON THE PROPOSED REZONING.

GERALD HAMILTON, REPRESENTING HIMSELF AND OTHER PROPERTY OWNERS ON CINNABAR AND MONTGOMERY STREETS, SAID THAT HE WAS CONCERNED ABOUT THE FENCE THAT WOULD SEPARATE THE PROJECT FROM THE RAILROAD TRACKS AND WHAT THEIR PROPERTIES WOULD LOOK AT. THE APPLICANT RESPONDED BY SAYING THAT THE JOINT POWERS BOARD (JPB), AS A PART OF THEIR MAINTENANCE FACILITY, WOULD CONSTRUCT A PORTION OF THE FENCE AND THAT THIS DEVELOPMENT WOULD CONSTRUCT THE REMAINDER. HE ALSO STATED THAT THERE WILL BE LANDSCAPING ALONG THE FENCE INCLUDING LOW TREES THAT WOULD NOT INTERFERE WITH THE OVERHEAD POWER LINES.

JIM ALVES, OF HARDCASTLE AUTO BODY, STATED THAT HE SUPPORTED THE PROJECT, BUT WAS CONCERNED ABOUT ELIMINATING THE LEFT TURN ON TO HOBSON STREET FROM COLEMAN AVENUE BY CLOSING THE MEDIAN. HE SAID THAT HE WOULD LIKE THIS CLOSURE TO BE RECONSIDERED. COMMISSION JAMES ASKED IF USING WALNUT STREET WAS A FEASIBLE ALTERNATIVE. MR. ALVES RESPONDED THAT IT WAS, BUT THAT IT CAN BE DIFFICULT BECAUSE THE STREET IS VERY NARROW AND THERE IS A LOT OF TRUCK AND CAR TRAFFIC TO MANEUVER AROUND, ESPECIALLY DURING THE MORNING HOURS.

PLANNING STAFF RESPONDED TO THE COMMENTS GIVEN BY THE SPEAKERS BY STATING THAT STAFF WOULD CONTINUE TO WORK WITH THE COMMUNITY AND THE DEVELOPER TO RESOLVE THE CLOSURE OF THE MEDIAN AT HOBSON STREET BEFORE A PLANNED DEVELOPMENT PERMIT IS ISSUED. STAFF ALSO ADDED THAT THE ALUC HAD REVIEWED THE PROJECT AND FOUND IT CONSISTENT WITH THEIR NOISE AND HEIGHT POLICIES. THE PLANNING COMMISSION THEN CLOSED THE PUBLIC HEARING AND VOTED 6-0-1 (ZITO ABSENT) TO CERTIFY THE FINAL EIR.

FOLLOWING CERTIFICATION OF THE EIR, THE PLANNING COMMISSION MADE A MOTION ON THE PLANNED DEVELOPMENT REZONING. COMMISSIONER LEVY STATED ALLOWING RETAIL SO CLOSE TO DOWNTOWN WOULD COMPETE WITH DOWNTOWN RETAIL. COMMISSION CAMPOS STATED THAT THE SITE HAS BEEN BLIGHTED FOR YEARS AND THAT HE DOES NOT SEE THE PROJECT AS A DETRIMENT TO THE RETAIL DOWNTOWN BECAUSE IT WILL NOT BE THE SAME TYPE OF USES. COMMISSIONER DHILLON ASKED HOW LONG THE SITE HAD BEEN DESIGNATED FOR COMBINED/INDUSTRIAL COMMERCIAL. STAFF RESPONDED THAT IT HAD BEEN DESIGNATED AS SUCH FOR MANY YEARS, BUT A TEXT AMENDMENT WAS APPROVED ABOUT A YEAR AGO THAT ALLOWED BIG-BOX RETAIL IN THE COMBINED/INDUSTRIAL COMMERCIAL DESIGNATION. THE COMMISSION THEN VOTED 6-0-1 (ZITO ABSENT) TO RECOMMEND THAT THE CITY COUNCIL APPROVE THE PROPOSED REZONING.

- f. [PDC04-016](#). Planned Development Rezoning from R-1-8 District to A(PD) District to allow construction of six Single Family Detached Residences on a 0.73 gross acre site, located between Mount Pleasant Road and Mount Kenya Drive, approximately 250 feet northerly of Marten Avenue (1795 Mount Pleasant Road) (Norman C, Robbins, Calandev, Llc, Owner/ Developer). Council District 5. SNI: None. CEQA: Mitigated Negative Declaration.

Recommendation:

Planning staff recommends that the Planning Commission recommend to the City Council denial of a proposed Planned Development Rezoning from R-1-8 District to A(PD) District to allow construction of six (6) single family detached residences as recommended by Staff.

RECOMMEND DENIAL (4-2-1; CAMPOS AND PHAM OPPOSED, ZITO ABSENT).

ONE MEMBER OF COMMUNITY SPOKE INDICATING SIX UNITS ARE TOO MANY GIVEN TRAFFIC IN THE AREA. APPLICANT NOTED PROJECT HAS DEDICATED LAND AND WILL PAY TO IMPROVE MT. PLEASANT ROAD, AND WILL CONTRIBUTE FUNDS TO MITIGATE IMPACT OF TWO ADDITIONAL UNITS BEYOND ALLOCATIONS.

STAFF CLARIFIED PROCEDURES FOR ADDING UNITS ALLOCATION TO EVERGREEN AREA DEVELOPMENT POLICY AREA. THE DEPUTY DIRECTOR COMMENTED THAT STAFF HAD BEEN BRINGING SMALL PROJECTS WITH INCREASED ALLOCATION FORWARD TO COUNCIL IN PAST YEARS, BUT NEW COUNCIL POLICY DISCOURAGES PROJECTS WHICH NEED ADDITIONAL ALLOCATION WHILE EVERGREEN PLANNING EFFORT IS BEING COMPLETED.

CITY ATTORNEY CLARIFIED THAT CITY COUNCIL HAD ADOPTED SUCH A POLICY IN JANUARY 2004. COMMISSIONER LEVY AND JAMES NOTED THAT STAFF AND COMMISSION SHOULD MAKE RECOMMENDATIONS BASED ON CITY COUNCIL POLICY.

COMMISSIONER PLATTEN MOVED THAT THE COMMISSION RECOMMEND DENIAL OF THE PROJECT FOR THE SOLE REASON THAT IT WOULD NEED MORE ALLOCATION PRIOR TO COMPLETION OF STUDY.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

1. Responding to statements made or questions posed by members of the public; or
2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda.

NONE

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

NONE

7. GOOD AND WELFARE

- a. Report from City Council

CITY ATTORNEY NOTED THAT THE COUNCIL DISCUSSION ON SECOND UNITS HAD BEEN POSTPONED.

- b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Curfew and Noise Monitoring Committee (Dhillon and James).
- Coyote Valley Specific Plan (Platten)

NONE

- c. Review of synopsis

NO COMMENT

8. ADJOURNMENT

2004 PLANNING COMMISSION MEETING SCHEDULE

November 1 Monday	6:00 p.m.	General Plan Hearing	Council Chambers
November 10	6:00 p.m.	Regular Meeting	Council Chambers
November 17	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
November 29 Monday	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
December 8	6:00 p.m.	Regular Meeting	Council Chambers